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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,369	01/26/2001	Kuniharu Takayama	121.1014	5753

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EXAMINER

CHAMPAGNE, DONALD

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/769,369

Applicant(s)

TAKAYAMA ET AL.

Examiner

Donald L. Champagne

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed with an amendment on 23 September 2004 have been fully considered but they are not persuasive. The arguments are addressed at para. 6, 7 and 11 below. Para. 5 has also been rewritten to better address applicant's arguments.

Claim Rejections - 35 USC § 102 and 35 USC § 103

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 and 9-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Radziewicz et al.
5. Radziewicz et al. teaches (independent claims 1, 4, 9, 12, 15 and 18) an advertisement posting system, a method of calculating an advertising cost and a computer readable record medium which stores said method in said system, the system comprising: a geographic factor designation/acquisition unit (*announcement server 30*, col. 7 lines 18-37) defining a geographic factor (the IP address of the user at *DTE 14*) to post an advertisement from location designation information (the IP address of the user at *DTE 14*); an advertisement cost calculation unit (*main controller 54*) calculating the cost of an advertisement in consideration of the geographical factor (col. 10 lines 3-15 and 26-29); and an advertisement posting unit (*advertisement/announcement server 30*) posting the advertisement on an information terminal (*DTE 14*), based upon an IP address of said

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information terminal, which reads on posting the advertisement in a manner related to the geographic factor. The reference also teaches (claims 4 and 12) calculating the cost of an advertisement in consideration of a temporal factor (col. 10 line 11) and (claim 15) posting/calculating the cost of the ad in a manner related to the geographical and temporal factors (citations given above).

6. Applicant argues (p. 10 first full para.) that the reference fails to teach a geographic factor designation/acquisition unit. The *announcement server 30* designates the user/subscriber IP address, which reads on a geographic factor.
7. Applicant argues (p. 10 second full para.) that the reference fails to teach calculating the cost of the ad in consideration of the geographic factor. The teaching is at col. 10 lines 3-15 and 26-29, with the geographic factor mentioned explicitly at lines 11-13. The examiner believes that the meaning of this teaching would be clear to one of skill in the art.
8. The reference also teaches: (claims 2, 5, 13 and 16) that the *main controller 54* is a status of use acquisition unit (col. 10 lines 6-8); (claims 3, 6 and 17) the user IP address as user information; and (claim 11) a means for designating or acquiring the user information of the presented advertisement (col. 7 line 61 to col. 8 line 10).
9. Applicant argues (p. 11 first full para.) that the reference fails to teach calculating the cost of the ad in consideration of multiple factors factor. The teaching at col. 10 lines 3-15 and 26-29 lists multiple factors: temporal (play time) and geographical (user/subscriber IP address).
10. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being obvious over Radziewicz et al. Radziewicz et al. does not teach a base cost calculation table for relating the cost of the ad to the geographic factor and the temporal factor. Because table lookup is a common and efficient mechanism for performing computerized calculations as a function of a finite number of factor values (e.g., the reference teaches table lookup at col. 7 lines 33 and 48), it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add a base cost calculation table to the teachings of Radziewicz et al.
11. Applicant argues (p. 13 top) that the rejection logic is not compelling. The examiner believes that it meets the test for a *prima facie* case.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
13. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.
14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L Champagne whose telephone number is 571-272-6717. The examiner can normally be reached from 6:30 AM to 5 PM ET, Monday to Thursday. The examiner can also be contacted by e-mail at donald.champagne@uspto.gov, and *informal* fax communications (i.e., communications not to be made of record) may be sent directly to the examiner at 571-273-6717.
15. The examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).
17. **AFTER FINAL PRACTICE** – Consistent with MPEP § 706.07(f) and 713.09, prosecution generally ends with the final rejection. Examiner will grant an interview after final only when

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applicant presents compelling evidence that "disposal or clarification for appeal may be accomplished with only nominal further consideration" (MPEP § 713.09). The burden is on applicant to demonstrate this requirement, preferably in no more than 25 words.

Amendments are entered after final only when the amendments will clearly simplify issues, or put the case into condition for allowance, clearly and without additional search or more than nominal consideration.

18. Applicant may have after final arguments considered and amendments entered by filing an RCE.
19. **ABANDONMENT** – If examiner cannot by telephone verify applicant's intent to continue prosecution, the application is subject to abandonment six months after mailing of the last Office action. The agent, attorney or applicant point of contact is responsible for assuring that the Office has their telephone number. Agents and attorneys may verify their registration information including telephone number at the Office's web site, www.uspto.gov. At the top of the home page, click on Site Index. Then click on Agent & Attorney Roster in the alphabetic list, and search for your registration by your name or number.

DONALD L. CHAMPAGNE
PRIMARY EXAMINER

Donald L. Champagne
Primary Examiner
Art Unit 3622

25 June 2005